

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**JAMES LEE ALEXANDER,**

Plaintiff,

v.

**SMITH & NEPHEW, INC.**

Defendants.

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2:18cv1689

**Electronic Filing**

**MEMORANDUM ORDER**

August 3, 2020

Plaintiff, James Lee Alexander (“Alexander” or “Plaintiff”) initiated this action on December 20, 2018, against his former employer, Smith & Nephew, Inc. (“S&N” or “Defendant”). In his First Amended Complaint, Alexander alleges Breach of Contract, Promissory Estoppel, Unjust Enrichment, Fraud, and violation of the Pennsylvania Wage Payment and Collection Law (the “WPCL”), 43 P. S. §§ 260.1-260.12. The case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge’s Report and Recommendation (ECF No. 50), filed on April 8, 2020, recommended that the Motion for Summary Judgment (ECF No.32) filed by S&N be granted in part and denied in part. Specifically, it is recommended that the motion be granted with respect to Alexander’s claims for Promissory Estoppel, Unjust Enrichment, and Fraud, and be denied with respect to his claims for Breach of Contract and violation of the WPCL. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. Objections were filed by S&N on April 29, 2020, and Alexander responded to the objections on May 15, 2020.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

**AND NOW**, this 3<sup>rd</sup> day of August, 2020,

**IT IS HEREBY ORDERED** that the Motion for Summary Judgment (ECF No.32) filed by S&N be granted in part and denied in part. With respect to Alexander's claims for Promissory Estoppel, Unjust Enrichment, and Fraud, the motion is **GRANTED**, and such claims are dismissed with prejudice. With respect to Alexander's claims for Breach of Contract and violation of the WPCL, the motion is **DENIED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 50) dated April 8, 2020 is adopted as the Opinion of the Court.

s/ DAVID STEWART CERCONE

David Stewart Cercone

Senior United States District Judge

cc: Andrew J. Leger, Jr., Esquire  
Emilie R. Hammerstein, Esquire  
Theodor A. Schroeder, Esquire

*(Via CM/ECF Electronic Mail)*